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20 DEC 2005

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In re Application of :  
TANAKA et al. :  
Application No.: 10/527,772 :  
PCT No.: PCT/JP04/10540 : DECISION ON REQUEST  
Int. Filing Date: 16 July 2004 :  
Priority Date: 17 July 2003 :  
Attorney Docket No.: 234732 :  
For: MEMBRANE PROTEIN LIBRARY FOR  
PROTEOME ANALYSIS AND METHOD  
FOR PREPARING SAME

This decision is in response to applicants' "Request for Corrected Filing Receipt" filed 21 October 2005 in the United States Patent and Trademark Office (USPTO). Applicants are requesting a corrected filing receipt which indicates that "PCT/JP04/10540 claims benefit of 10/622,002 filed July 07, 2003."

Applicants' request is **DISMISSED**.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/..., filed...." A benefit claim that merely states: "This application claims the benefit of Application No. 10/..., filed...." does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application. The application data sheet filed 11 March 2005 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

In order to claim benefit under 35 U.S.C. 120 to the prior-filed application at this point, applicants must file a petition under 37 CFR 1.78(a)(3). The petition under 37 CFR 1.78(a)(3) must be accompanied by: 1) the reference required by 35 U.S.C. § 120 and 37

CFR 1.78(a)(2)(i) of the prior filed application, unless previously submitted; (2) the surcharge set forth in § 1.17(t); and; (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(i) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

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Any questions concerning this matter may be directed to Anthony Smith at 571-272-3298.



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